

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON EDUCATION**

**Call to Order:** By **CHAIRMAN JOAN ANDERSEN**, on February 12, 2003  
at 3:16 P.M., in Room 137 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Joan Andersen, Chairman (R)  
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)  
Rep. Larry Lehman, Vice Chairman (R)  
Rep. Norman Ballantyne (D)  
Rep. Norma Bixby (D)  
Rep. Gary Branae (D)  
Rep. Carol Gibson (D)  
Rep. Verdell Jackson (R)  
Rep. Bob Lake (R)  
Rep. Bob Lawson (R)  
Rep. Joe McKenney (R)  
Rep. Clarice Schrumpf (R)

**Members Excused:** None.

**Members Absent:** Rep. Nancy Fritz (D)  
Rep. Pat Wagman (R)

**Staff Present:** Eddy McClure, Legislative Branch  
Mari Prewett, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp in these minutes appears at the end of the content it refers to.

**Committee Business Summary:**

Hearing & Date Posted:

Executive Action: HB 73, HB 193, HB 449, HB 459

**EXECUTIVE ACTION ON HB 73**

**Motion:** REP. GALVIN-HALCRO moved that HB 73 DO PASS.

**Discussion:**

REP. LEHMAN asked what the relationship was between free and reduced lunches and the testing. REP. GIBSON replied that free and reduced lunches were the criteria for getting special services in Title I and that many times the areas were socio-economically depressed. She continued that because of several factors in those areas children sometimes do not achieve as well.

REP. FRITZ arrived at the hearing.

REP. LAKE commented that to his understanding the money going to the school districts was not being specified for teacher salaries. He asked if a portion of the money was going to the Office of Public Instruction. REP. LAKE stated that he would oppose the bill as it was too vague.

REP. LAWSON explained that this funding would be like the ANB funding as it would go to the school districts where the local control option would take over. He continued that the local control would allow the school districts to use the money where it would do the most good.

REP. GIBSON pointed out that paying teachers a good salary is not the only answer to good education. She continued that there are many ways to provide a good education. REP. GIBSON stated that there is more to education than teachers.

***{Tape: 1; Side: A; Approx. Time Counter: 0 - 12.7}***

REP. JACKSON asked for clarification of whether or not the money requested for HB 73 was in addition to money that was being proposed by Appropriations for education. Jeff Weldon, Office of Public Instruction, answered that he felt that this would be additional money added to the already proposed funds.

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There was discussion regarding the fiscal note, and it was determined that the wrong fiscal note had been referenced.

***{Tape: 1; Side: A; Approx. Time Counter: 12.7 - 17.5}***

REP. JACKSON asked Madalyn Quinlan, Office of Public Instruction, if the amount in the bill was in addition to the \$24.5 million that was provided through the Appropriations Committee. Ms.

**Quinlan** answered that it was. She continued that the \$24.7 million that the Appropriations Committee had put back into the budget had brought the budget up to the 2002 base. **Ms. Quinlan** explained that putting the \$24.7 million back in the budget was the starting point. **Ms. Quinlan** explained the procedure for determining the proposed rates for funding and how they reached that figure.

**REP. GALVIN-HALCRO** asked **REP. LAKE** to clarify his remark that he was not comfortable putting money into testing, and that he would rather see the money put into teacher salaries. **REP. LAKE** replied that what he had said was that the money was being put into a school district with no assurance that the money would go to the teachers. He continued that if that were the case they would continue to be in the same situation as now: putting more money in and still having underpaid teachers.

**REP. GALVIN-HALCRO** asked **REP. LAKE** about his question as to whether or not money was going to OPI. She asked **REP. LAKE** to address this question to someone from OPI.

**CHAIRMAN ANDERSEN** asked Madalyn Quinlan to address the question.

**REP. LAKE** asked **Ms. Quinlan** if in an increase such as that being suggested, would any of the money being budgeted stop at OPI on its way to the schools. **Ms. Quinlan** said that not a penny went to OPI.

**REP. WAGMAN** asked **Ms. Quinlan** what the proposed three-year averaging would do to the ANB and dollar figures that **REP. JACKSON** was asking about. **Ms. Quinlan** replied that the bill being referred to was three-year averaging in both directions, and the price tag on that bill was \$8.5 million in the second year. She continued that if the two bills passed she did not know what the dollar amount would be, but the ANB and the funding rate would be increased, thereby increasing the total amount.

**REP. JACKSON** referred **Ms. Quinlan** to the "Student Achievement in Montana" chart that had been handed out and asked her who took the test. He continued that he was under the impression that all students took the test as the goal was that every student would meet the proficiency level. **Ms. Quinlan** stated that the information handed out was the results of the National Assessment for Educational Progress. She continued that it was a test developed by the federal government, and that only a sampling of students in every state took the test. **Ms. Quinlan** replied that she did not know what the size of the sample in Montana was, but that it was not all of the students. **Ms. Quinlan** proceeded to

inform the Committee that there were other tests given, and she indicated which grades took which test.

**REP. LEHMAN** stated that he would oppose the bill as he felt it would be referred to Appropriations and would not come out due to the State's financial difficulties.

**REP. GIBSON** asked **CHAIRMAN ANDERSEN** if their job was to assure that education was adequately funded, or if they were to figure out if the money was available for that funding. **CHAIRMAN ANDERSEN** replied that it was not their job to figure out if the money was available.

**REP. BIXBY** stated she felt it was a good bill. Even though it might have problems in Appropriations, the Committee needed to take the bill to them to see if the money could be made available to fund this program, to keep good teachers in the system and keep the schools open.

***{Tape: 1; Side: A; Approx. Time Counter: 17.5 - 28.3}***

**REP. GALVIN-HALCRO** stated that she would like to see the bill moved on. She continued that the bill should be placed side by side with all of the other bills to fund education. Each bill should stand on its own merits and then be sent to the House floor for full debate.

**REP. FRITZ** stated that she felt that the mandate for the Education Committee was to fund education to the level of adequacy. She pointed out that they were not funding education to the level of excellence. **REP. FRITZ** went on to say that she felt the State would get in deeper trouble if they didn't at least meet the standard of adequacy.

**Vote:** Motion carried 8-6 with **REPS. LEHMAN, JACKSON, MCKENNEY, LAKE, WAGMAN** and **ANDERSEN** voting no by roll call vote.

***{Tape: 1; Side: B; Approx. Time Counter: 0 - 1.9}***

**EXECUTIVE ACTION ON HB 193**

**Motion:** **REP. BRANAE** moved that **HB 193 DO PASS.**

**Motion:** **REP. BRANAE** moved **TO AMEND HB 193.**

**EXHIBIT (edh31a01)**

**EXHIBIT (edh31a02)**

**Discussion:**

**Eddy McClure, Legislative Services**, explained that the amendments were technical in nature and how they affected the bill.

**Vote:** Motion on the two amendments carried 14-0 by voice vote.

**Motion:** REP. BRANAE moved that HB 193 DO PASS AS AMENDED.

**Discussion:**

**REP. LAKE** expressed his concern about where the money would come from to fund the bill.

**REP. MCKENNEY** pointed out to the Committee that he was concerned about the price tag on the bill, and as such would have to vote against the bill.

**REP. LEHMAN** asked REP. BRANAE to clarify for him whether or not administrators would be included in the FTE count for the per-educator entitlement as they were certified teachers. **REP.**

**BRANAE** responded that certified administrators would meet the conditions for the entitlement.

**REP. GIBSON** asked REP. GALVIN-HALCRO if there had been a proposed education bill for \$63 million that did not pass last session.

**REP. GALVIN-HALCRO** answered that she was correct.

**REP. GIBSON** addressed the Committee, commenting on the fact that funding had not been provided for education in the last session, and now there had been school closures, strikes and cutting of whole programs. She continued that she was concerned that Montana was not investing in the future or in the kids. **REP. GIBSON** went on saying that they needed to try to get adequate money to fund education.

**REP. BALLANTYNE** stated that he liked the bill and its simplicity. He continued that they needed to try to get all of the funding that they could for education. **REP. BALLANTYNE** explained to the Committee that his constituents had advised him that they wanted him to do his best to fund education to where it was a model program.

**REP. BRANAE** asked the Committee for their support of HB 193. He went on to say that this was a new and different way in which to fund education. **REP. BRANAE** pointed out that he felt that

education was one of the last best things for Montana. He continued saying that if Montana were going to move forward education must be supported and maintained at an appropriate level.

**Vote:** Motion carried 8-6 with REPS. JACKSON, MCKENNEY, LAKE, WAGMAN, SCHRUMPF and ANDERSEN voting no by roll call vote. REP. BIXBY voted aye by proxy vote.

*{Tape: 1; Side: B; Approx. Time Counter: 1.9 - 12.9}*

#### EXECUTIVE ACTION ON HB 449

**Motion:** REP. GALVIN-HALCRO moved that HB 449 DO PASS.

#### Discussion:

REP. BRANAE talked about bullying being a problem in the public school system. He explained that this bill was an attempt to solve some of those problems by requiring districts to come up with a policy to prevent bullying or harassment. REP. BRANAE stated that no one should have to be the recipient of harassment or bullying. He urged the Committee to pass HB 449.

REP. JACKSON spoke in opposition to the bill. He explained that he believed laws at the state level usurped local control. He continued that he felt state laws would leave the school districts open to litigation.

REP. LAKE stated that he had talked to several districts. He pointed out that there were already policies in place to handle bullying and harassments in the school districts. REP. LAKE commented that having a state law that would force a standard over the current policies would cost money to enforce.

REP. GALVIN-HALCRO advised the Committee that there was a need for HB 449. She explained that she had received numerous e-mails from school administrators, teachers and students asking her to support the bill. REP. GALVIN-HALCRO stated that she did not believe there were substantial policies in place to take care of the problem.

REP. BIXBY spoke in support of HB 449 and stated that she was in agreement with REP. GALVIN-HALCRO. She expressed her concern for the adequacy of the policies in place in the local school districts. REP. BIXBY stated that she felt the policies would set a precedent saying that bullying and harassment would not be tolerated.

**REP. WAGMAN** asked Jeff Weldon if he was aware of any school districts that have not adopted policies on harassment or bullying. **Mr. Weldon** responded that he did not know which districts had policies and which did not.

**REP. WAGMAN** talked about testimony provided by Lance Melton in opposition to the bill. **REP. WAGMAN** commented that he did not believe there was a need for a state law on the books on bullying and would prefer the problem was left to local control. **REP. WAGMAN** stated he would vote against the bill.

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**REP. FRITZ** declared that this issue was one she felt very strongly about. She talked about the degree of bullying she had witnessed in the schools as a teacher. **REP. FRITZ** pointed out that bullying had risen to a new level and needed to be addressed. She continued that they needed to help children and make sure that they felt safe in school.

**REP. LEHMAN** stated that he opposed the bill and explained his reasons why. **REP. LEHMAN** referred to the fact that no administrators had spoken in favor of the bill and that the Montana School Boards Association had opposed HB 449. He pointed out that as a Committee they could enact all sorts of policies but it did not mean that anything would happen. **REP. LEHMAN** continued that he felt it was a local problem and should be handled at the local level.

**REP. ANDERSEN** explained that she felt this was a matter for local control. She continued that this was a policy that the local school boards should enact, and for that reason she would vote against the bill.

**REP. BALLANTYNE** spoke in support of HB 449. **REP. BALLANTYNE** advised that, although his school district did have a bullying policy in place, there were too many that did not. He continued that he felt that as the Education Committee they should support a bill that states that bullying is not allowed in the schools.

**Vote:** Motion failed 6-8 with **REPS. GIBSON, BIXBY, BALLANTYNE, BRANAE, FRITZ** and **GALVIN-HALCRO** voting aye by roll call vote.

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**EXECUTIVE ACTION ON HB 459**

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**Motion:** REP. LAWSON moved that HB 459 DO PASS.

**Motion:** REP. LAWSON moved TO AMEND HB 459.

**EXHIBIT** (edh31a03)

**Discussion:**

REP. LAWSON explained the purpose of the amendments to the Committee. See The Purposes for Representative Lawson's Amendments to House Bill 459, attached as Exhibit 4, for that explanation.

**EXHIBIT** (edh31a04)

CHAIRMAN ANDERSEN asked Kris Goss of the Governor's Office what his opinion of the bill was. Mr. Goss stated that they preferred HB 459 in the form that it had been introduced.

REP. GALVIN-HALCRO stated that she would like to hear from Mr. Weldon of OPI as to his view of the amendments being discussed. Madalyn Quinlan, OPI, answered that, although she had not seen the amendments, she felt that what was trying to be done was to put HB 459 into the same form as SB 92. She went on to say that SB 92 reflected the recommendations of the Governor's Office.

REP. LEHMAN asked REP. LAWSON if the bill in its original form was addressing both declining enrollments as well as rising enrollments. REP. LAWSON stated that was correct.

REP. LEHMAN stated that he had received e-mails from schools with declining enrollments stating that they did not want a bill which addressed schools with rising enrollments. He asked REP. LAWSON how his amendments addressed that question. REP. LAWSON replied that he felt his amendments would help all school districts. He continued that the amendments would make the bill fair to all concerned.

CHAIRMAN ANDERSEN remarked that when she had served on the Interim Education and Local Government Committee and had traveled around the State listening to the people and the problems they were having regarding money, the main issue had been the effects of declining enrollment and what could be done to help the situation. She continued that the schools with increasing enrollments did not want to be included in any type of averaging program, as it would create a loss of funding for them.



**REP. GIBSON** stated that if the amendments made the bill like SB 92, she had received overwhelming e-mail against Senate Bill 92. She continued that her constituents had informed her they felt that HB 459 was a better bill. **REP. GIBSON** expressed her concern in regard to voting for the bill with the amendments.

**REP. BRANAE** explained that he felt they would be penalizing schools with increasing enrollments if they did not address the situation in the bill. He expressed his opinion that he felt the amendments were a good way to address the fairness question.

**CHAIRMAN ANDERSEN** asked **REP. LAWSON** if small schools that had consistent ups and downs in enrollment would be able to opt in and out of the averaging policy. She further asked if the school would have to stay in the program once they were in it. **REP. LAWSON** responded that the determination would be made each year.

**REP. JACKSON** stated that he felt they had used band-aids on the formula in the past, making it less adequate. He continued that he did not feel that the amendments were reflecting fairness.

**REP. JACKSON** remarked that schools with decreasing enrollment should be treated the same as the schools with increasing enrollments. He pointed out that letting schools choose how they wanted to address the problem would create an element of unfairness.

**CHAIRMAN ANDERSEN** referred **REP. LAWSON** to his amendment stating, "In your amendment you struck "2004." She continued saying, "That was addressing the issue of schools that have declining enrollment. Two years ago we gave them the ability to mitigate that declining enrollment over a period of five years; and if they had a declining enrollment which put them so they were at their maximum budget, they could go to their voters and ask their voters to approve the previous year's budget. That money then did fall onto the local taxpayers." She wondered if they were not going to go into the averaging until 2007, and if there were a number of schools that were doing this and chose to continue to do so, if that would that have a slight fiscal impact on the bill.

**REP. LAWSON** deferred to Madalyn Quinlan of OPI for an answer.

**Madalyn Quinlan** responded that the impact would be on the local taxpayers. She continued that it would have no impact on direct state aid or guaranteed tax base aid.

**CHAIRMAN ANDERSEN** asked Ms. Quinlan if the schools participating in the five-year plan to mitigate their declining enrollment would then not participate in the declining enrollment averaging.

**Ms. Quinlan** answered that she believed the amendments would allow a school to do both. She continued they would be able to average over three years to establish their ANB, and they would be able to retain their soft caps.

**CHAIRMAN ANDERSEN** further asked Ms. Quinlan if the school did both, because they might receive more State aid, if it would have a positive affect on the local taxpayers. **Ms. Quinlan** referred to the fiscal note on SB 92, comparing its 10 million dollar price tag to HB 459's price tag of \$8.5 million.

*{Tape: 2; Side: A; Approx. Time Counter: 10.2 - 30.1}*

**CHAIRMAN ANDERSEN** asked Ms. Quinlan if it would have a slight positive affect on local taxpayers in some districts. **Ms. Quinlan** indicated that would be correct. She continued that it would depend on how the districts responded to the bill.

**REP. LAKE** spoke to the comments of **CHAIRMAN ANDERSEN** regarding the school district with the continuous changes in enrollment. He pointed out that if the school districts were allowed to pick which direction they would go; he did not feel that HB 459 was a fair bill.

**REP. LAWSON** remarked that when he looked at fairness, he looked at the bill in its original form and concluded that it was good for the schools with declining enrollments; however, it was hurting schools with increasing enrollments. He concluded that he felt the bill with his amendments would help everyone.

**REP. FRITZ** remarked that she felt the reality of the situation was that schools with declining enrollments would continue to decline, and would take advantage of the bill. She went on to say that she felt the schools with increasing enrollments would always take the actual count over averaging. **REP. FRITZ** pointed out that the purpose of the bill was to help schools with declining enrollments, not to punish the schools with increasing enrollments.

**Vote:** Motion failed 7-7 with **REPS. LEHMAN, BALLANTYNE, BRANAE, FRITZ, LAWSON, GALVIN-HALCRO** and **ANDERSEN** voting aye.

**Motion:** **REP. LEHMAN** moved **TO AMEND HB 459**.

**EXHIBIT** (edh31a05)

**Eddy McClure** deferred to Amy Carlson of the Governor's Budget Office for an explanation of the amendment, attached hereto as Exhibit 5.

**Amy Carlson, Governor's Budget Office**, stated they were trying to protect a certain class that had an increase in their enrollments from having a decrease in their ANB. She continued by explaining to the Committee how the proposal would work.

**REP. LAKE** asked Ms. Carlson to clarify whether or not the three year averaging of ANB would be used if the enrollment were on the way up. **Ms. Carlson** stated that the amendment would only impact the first year to prevent schools with increasing enrollments from losing funds.

**CHAIRMAN ANDERSEN** asked Ms. Carlson for further clarification. **Ms. Carlson** reiterated that schools with increasing enrollments would be calculated somewhat differently for the first year only to prevent them from losing funding.

**Vote:** Motion carried 13-1 with **REP. GALVIN-HALCRO** voting no by roll call vote.

**Motion:** **REP. LAWSON** moved that **HB 459 DO PASS AS AMENDED.**

**Vote:** Motion carried 10-4 with **REPS. BIXBY, BRANAE, LAWSON** and **GALVIN-HALCRO** voting no by roll call vote.

**REP. LAWSON** announced that the Subcommittee on HB 302 would meet immediately following the regular Committee meeting.

***{Tape: 2; Side: B; Approx. Time Counter: 0 - 14.5}***

**ADJOURNMENT**

Adjournment: 4:50 P.M.

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REP. JOAN ANDERSEN, Chairman

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MARI PREWETT, Secretary

JA/MP

**EXHIBIT** (edh31aad)